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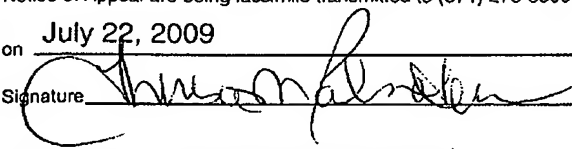
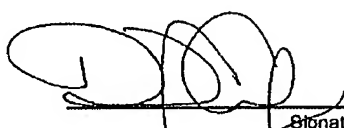
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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		60469-253; PA000.05210-US	
CERTIFICATE OF FACSIMILE I hereby certify that this Pre-Appeal Brief Request For Review and Notice of Appeal are being facsimile transmitted to (571) 273-8300. on <u>July 22, 2009</u> Signature <u></u> Typed or printed name <u>Theresa M. Palmateer</u>		Application Number <u>10/565,382</u>	Filed <u>01/20/2006</u>
		First Named Inventor <u>Miller, Robin Mihekun</u>	
		Art Unit <u>3654</u>	Examiner <u>Pico, Eric E.</u>
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/> applicant/inventor.		Signature <u>David J. Gaskey</u>	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		Typed or printed name	
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>37,139</u>		<u>(248) 988-8360</u>	
		Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u>7/22/2009</u>	
		Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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JUL 22 2009

60,469-253
OT-5210**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Miller, Robin Mihekun
Serial Number: 10/565,382
Filed: 01/20/2006
Group Art Unit: 3654
Examiner: Pico, Eric E.
Title: ELEVATOR ASSEMBLY WITH EXTENDABLE SILL

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Box AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully requests pre-appeal brief review of the rejections in the Final Office Action dated May 26, 2009.

Claim 1 is reproduced here for convenience.

1. An elevator assembly comprising
an elevator door mounted for movement relative to a car frame;
a sill supported by said car frame wherein said sill moves from a retracted position to an extended position when said elevator door is initially aligned with a landing door; and
a locking mechanism for selectively locking said sill to a landing structure near the landing door, wherein the elevator door is prevented from moving from a closed position unless the sill is locked to the landing structure.

All rejections under 35 U.S.C. §103 should be withdrawn.

There are two basic reasons why there is no *prima facie* case of obviousness. First, the proposed modification to the primary reference cannot be made. Second, the secondary reference

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relied upon by the Examiner does not teach what the Examiner contends and, therefore, even if the modification could somehow be made, the result is not what the Examiner contends.

Every rejection under 35 U.S.C. §103 requires modifying the *Kato, et al.* reference in a manner that is not permissible. MPEP 2143.01(V) and (VI) explain that a proposed modification to a reference cannot be made where it will change the principle of operation of that reference or make it incapable of performing its intended function. The Examiner's proposed changes to the *Kato, et al.* reference do exactly that and, therefore, cannot be made. It follows that there is no *prima facie* case of obviousness.

The *Kato, et al.* reference relies upon actuation of the door mover mechanism (5, 6, 7, 8) for purposes of moving the auxiliary sill 14. The Examiner proposes to modify the *Kato, et al.* reference to cause the auxiliary sill 14 to be moved into a position where it could be locked to a landing structure before the elevator door of the *Kato, et al.* reference is opened. That kind of modification would completely change the principle of operation of the *Kato, et al.* reference and render it incapable of achieving its intended result. The principle of operation in that reference is to use movement of the door opening mechanism to cause movement of the auxiliary sill 14 from the position shown in Figure 2 into the position shown in Figure 4. The position shown in Figure 2 corresponds to the door being in the closed position of Figure 1 and the position of Figure 4 corresponds to the open position of Figure 3. It is movement of the door from the closed position of Figure 1 to the open position of Figure 3 that results in the movement of the auxiliary sill 14 from the position in Figure 2 to the position of Figure 4. With the proposed modification, that type of coordinated movement is no longer possible. Therefore, it changes the principle of operation of the reference.

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Additionally, the *Kato, et al.* reference *requires* movement of the door opening mechanism to achieve its intended result of moving the auxiliary sill 14. If one were to modify the reference according to the Examiner's suggestion, it would be impossible to do that and render *Kato, et al.*'s arrangement useless because the door opening mechanism that moves the auxiliary sill 14 cannot move until the auxiliary sill 14 is already moved (according to the Examiner's modification). The Examiner is completely eliminating the teachings of the *Kato, et al.* reference when suggesting the proposed modification and that is not permissible for attempting to manufacture a *prima facie* case of obviousness. One cannot remove an intended feature or function of a reference and completely redesign the arrangement of the reference as the Examiner proposes to do here. The proposed modification requires moving the auxiliary sill 14 by some other mechanism, which is not shown anywhere in the cited references nor suggested by the Examiner, when the reference requires the door opening mechanism to move the doors simultaneously with moving the auxiliary sill 14 is in the position shown in Figure 4.

It is impossible to manufacture a *prima facie* case of obviousness by attempting to modify the *Kato, et al.* reference in the manner suggested by the Examiner. Given that the proposed modification cannot be made in any one of the Examiner's stated grounds of rejection, all rejections under 35 U.S.C. §103 must be withdrawn.

Additionally, the *Mabuchi* reference does not teach "a locking mechanism 31 for selectively locking said sill 3 to a landing structure 17 near a landing door 18a, 18b, wherein the elevator door 5a, 5b, is prevented from moving from a closed position unless the sill 3 is locked to the landing structure 17," as suggested by the Examiner. The sill 3 is never "locked" to the landing structure 17. Instead, the mechanism 31 is a door lock actuator that has nothing to do

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with locking the sill 3 to anything. A machine translation of a portion of the *Mabuchi* reference is provided here:

[0019]Hereafter, an operation of this invention is explained.

[0020]Therefore, if the riding basket 1 is implanted on a predetermined floor when canceling a door lock and opening the above-mentioned opening and closing doors 5a and 5b and both the above-mentioned hole side doors 18a and 18b now, Based on the instructions from the operation control board which is not illustrated, it energizes to the above-mentioned solenoid 31, By resisting the elasticity of the coil spring 36 of a tautness and adsorbing the permanent magnet 35b of the operation member 35 with the adsorption piece 33 of the plunger 32 of this solenoid 31, It descends and evacuates from the running route of the guide shoe 18c by prudence, and the above-mentioned door-lock member 34 cancels the door lock system of the opening and closing doors 5a and 5b of the above-mentioned riding basket 1, and the hole side doors 18a and 18b according to non-contact, and is synchronizing and opening the opening and closing doors 5a and 5b and the hole side doors 18a and 18b.

[0021]On the other hand, when carrying out a door lock and closing the above-mentioned opening and closing doors 5a and 5b and both the above-mentioned hole side doors 18a and 18b, operation of the reverse operation mentioned above is performed.


Making sure that the door locks are capable of functioning as intended is not the same thing as locking a sill 3 to a landing structure (or anything else for that matter). It follows that the *Mabuchi* reference does not teach locking a sill to a landing structure or preventing a door from moving from a closed position until the sill is so locked. Therefore, even if the proposed combination somehow could be made, the result is not what the Examiner suggests and there is no *prima facie* case of obviousness.

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Given that every rejection depends on the improper proposed combination of the *Kato, et al.* and *Mabuchi* references, all rejections must be withdrawn.

Respectfully submitted,

CARLSON, GASKEY & OLDS

By: 

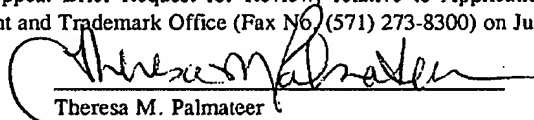
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Dated: July 22, 2009

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CERTIFICATE OF FACSIMILE

I hereby certify that this Pre-Appeal Brief Request for Review, relative to Application Serial No. 10/565,382 is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on July 22, 2009.


Theresa M. Palmateer